

Remarks

Claims 1, 3-9, 11-14, 17-29 and 30 are pending. Claim 1 is amended incorporate the limitations of claim 2. Support for this amendment is found in claim 2 as filed, the Abstract, and page 3, lines 23-27 of the application. Claim 9 is amended to make it depend from claim 1, and to add a missing "an" with support in claims 1 and 10 as filed and in the Abstract and page 3, lines 23-27 of the application. Claims 2 and 10 are, thus, cancelled herein. Claims 3, 4, 11 and 12 are amended to delete the term "first" as a modifier of "antigen," as the term does not add meaning to the claims as written. New claims 29 and 30 are added to recite that the composition and method of claims 4 and 12, respectively, comprise the protein of SEQ ID NO:9 with support in the specification in SEQ ID NO:9, Examples 2 and 3 and in claims 4, 12, 21, 22 and 25 as filed. No new matter is believed to be added by these amendments. Consideration and allowance of the pending claims is respectfully requested.

Applicants note that there is a defect in the present Restriction Requirement. Particularly, claims 22-28 are not listed in the groupings in paragraph I of the Election/Restriction. It is not clear to applicants what is the Examiner's intent with regard to those claims as it is not explicitly stated in the Election/Restriction.

Applicants provisionally elect group I (claims 1, 5-9 and 13) with traverse. With the amendments to claims 1 and 9, the claims of groups II (claims 3-4 and 11 and 12) and I share a common inventive concept. The compositions and methods now claimed in groups I and II are not disclosed in either Barney et al. (US patent no. 6, 258,782) or Coffier et al. (Vaccine 2001, Vol. 19, pp. 684-693). The groups are also related in that

group I claims, and group II requires, a composition comprising one of the recited SEQ ID NOS and an antigen.

Furthermore, rejoinder is applicable. More specifically, the claims of group II, as fully dependent on and including the limitations of claim 1 of group I, are entitled to rejoinder upon the allowance of the claim from which they depend.

Applicants also provisionally elect the species of SEQ ID NO:1 with traverse. Claims 1, 9, 14, 21 and 28 are generic to the elected species. Applicants understand that upon the allowance of a generic claim, applicants are entitled to the search of a reasonable number of species identified in claims 1, 9, 14, 21 and 28.

Applicant also respectfully requests that the restriction requirement be reconsidered, as the Examiner has not shown that a serious burden would result if all the claims are examined together. M.P.E.P. § 803 provides that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” (*Emphasis added.*) Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121) and (2) the search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P. § 803. Applicant notes that the restriction requirement does not provide sufficient basis to indicate that examination of both of the recited groups would overly burden the Examiner. Applicant thus respectfully requests reconsideration of the election requirement.

Furthermore, a search that would be adequate for group I would identify art relevant to group II, because group II requires the use of the composition of group II.

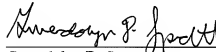
Once a search for group I is completed as required, minimal or no additional searching should be required to have in hand all of the art relevant to both groups.

Favorable consideration of claims 1, 3-9, 11-13 and 29-30 is earnestly solicited.

A Credit Card payment in the amount of \$225.00, representing the extension of time fee for a small entity under 37 C.F.R. § 1.17(a)(2) and a Request for a two (2) month Extension of Time has been submitted electronically. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

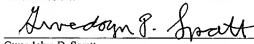
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